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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U338E) for a Permit to Construct Electrical Facilities With Voltages Between 50 kV and 200 kV: Moorpark-Newbury 66 kV Subtransmission Line Project.

Application 13-10-021  
(Filed October 28, 2013)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING MOTION  
TO SET ASIDE SUBMISSION**

By motion filed August 12, 2016, the Center for Biological Diversity, Alan and Peggy Luddington, Environmental & Regulatory Specialists, Inc.,<sup>1</sup> Santa Rosa Valley Estates Homeowners Association, Krista and Phillip Pederson, Cheryle M. Potter and Herbert T. Potter, James Porter, and Donald Walker and Therese Walker (jointly, Intervenors) move to set aside submission to take further evidence and for the proposed decision to consider the August 9, 2016, oral argument before the Commission. The motion is denied.

**1. Evidence Related to Camgen Reconnection**

Intervenors seek to present (1) an August 1, 2016, letter from the California State University, Channel Islands Site Authority to the Commission

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<sup>1</sup> Environmental & Regulatory Specialists, Inc. is represented by David J. Tanner. Although the Intervenors' motion misidentifies David J. Tanner as the joining party, we deem it to be jointly sponsored by the proper party, Environmental & Regulatory Specialists, Inc.

expressing the Site Authority's support for a new power purchase agreement between Southern California Edison Company (SCE) and the Camgen cogeneration facility, (2) minutes of the Site Authority's March 30, 2016, regular meeting describing and speculating regarding influences affecting negotiations between SCE and Camgen, and (3) a June 15, 2016, memo from attorney Matthew V. Brady to the Site Authority providing an update on the status of negotiations for a new power purchase agreement between SCE and Camgen. The Intervenor's assert that this evidence "bears on material issues of fact in the proceeding on the issue of the Camgen reconnection." (Motion, p. 2.)

Intervenor's do not identify any issue in the proceeding upon which this proposed evidence has a material bearing, and none is apparent. The assigned Commissioner's November 13, 2015, scoping memo identifies the issues to be determined as follows:

1. What are the significant adverse environmental impacts of the proposed project?
2. Are there potentially feasible mitigation measures or project alternatives that will avoid or lessen the significant adverse environmental impacts?
3. As between the proposed project and the project alternatives, which is environmentally superior?
4. Are the mitigation measures or project alternatives infeasible?
5. Are there overriding considerations that nevertheless merit Commission approval of the proposed project or project alternative?
6. Was the Environment Impact Report (EIR) completed in compliance with CEQA, did the Commission review and consider the EIR prior to approving the project or a project alternative, and does the EIR reflect our independent judgment?

7. Is the proposed project and/or project alternative designed in compliance with the Commission's policies governing the mitigation of electric and magnetic field effects using low-cost and no-cost measures?
8. Should the application be dismissed on the basis that SCE and Commissioners or Commission staff engaged in various private communications?

At best, this proposed evidence is marginally related to Issue No. 2 regarding potentially feasible project alternatives that will avoid or lessen the significant adverse environmental impacts. In this regard, the EIR screened six project alternatives (and a combination of two of those alternatives) including Alternative 4 (reconnect the Camgen Generator). The EIR determined that none of the alternatives, including reconnection of the Camgen Generator, would both feasibly attain most of the basic project objectives and avoid or substantially lessen the proposed project's significant effects. Specifically, the EIR finds that reconnection of the Camgen Generator would result projected voltage violations at Newbury Substation beginning in the first year of operation. Intervenors do not explain how the proposed evidence materially informs this issue, and there is no independent basis for us to find that it does so.

## **2. SCE 2016 Forecasts**

Intervenors seek to present evidence of SCE's most recent forecasts since the 2015-2024 peak demand growth projection with respect to the factual issue of overriding considerations (Issue No. 5). Intervenors assert that "the most recent forecasts show less projected demand than the previous forecast, and this is a material changes (sic) of fact that occurred since the record was submitted." (Motion, p. 5.) It is axiomatic that annual forecasts will deviate from year to year; however, absent an unforeseen emergency situation or jarring change that patently requires wholesale reevaluation of the record, it is impracticable and contrary to the public interest to defer Commission resolution of pending matters

on this basis. Intervenors do not make a showing such circumstances exist, and there is no apparent basis for us to find that they do.<sup>2</sup>

### **3. Alleged Violation of Commission Rules**

Intervenors assert that the proposed decision violates Rules 13.13 (regarding oral argument before the Commission) and Rule 13.14 (regarding submission for Commission decision) for having issued in advance of the parties' oral argument before the Commission. Intervenors assert that the proposed decision must therefore be withdrawn and a new proposed decision issued that takes into account the oral argument.

Intervenors misapprehend Rules 13.13 and 13.14. Rule 13.13 codifies the parties' right to present oral argument to a quorum of the Commission. The Commission may, in issuing its decision, adopt, modify, or set aside the proposed decision or any part of the decision based on evidence in the record. (Public Utilities Code Section 1701.3(e).) Rule 13.14 reflects that the Commission, in issuing its decision, may consider oral argument as may have been presented pursuant to Rule 13.13. It does not require the proposed decision to issue after such oral argument.

That said, the presiding officer may withdraw or revise (subject to the restriction's inherent in Rule 14.1(d)'s definition of "alternate proposed decision") the proposed decision on his or her own motion if necessary and

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<sup>2</sup> Intervenors largely take the opportunity of reply to SCE's response to reargue the merits of the matter based on the existing record, arguing that "the record is replete with examples of why this project is not needed and how there are no or low cost feasible alternative (sic) that would solve any alleged need." (Reply, p. 2.) This reargument does not inform the merits of this motion to set aside submission to take additional evidence.

appropriate to consider oral argument as may have been presented. I was present at the August 9, 2016, oral argument, I considered it, and I have no cause to revise my proposed decision based on it.

For all these reasons, the motion is denied.

**IT IS SO RULED.**

Dated August 17, 2016, at San Francisco, California.

/s/ HALLIE YACKNIN

Hallie Yacknin  
Administrative Law Judge